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**IN THE
COURT OF APPEALS OF INDIANA**

CURTIS GODFREY,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 49A04-0711-CR-632
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Clark Rogers, Judge
Cause No. 49G16-0505-FD-80817

May 27,2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

In this belated appeal, Appellant-Defendant Curtis Godfrey challenges his convictions, following a bench trial, for Pointing a Firearm as a Class D felony¹ and Domestic Battery as a Class A misdemeanor.² Godfrey claims there was insufficient evidence to support each conviction. We affirm.

FACTS AND PROCEDURAL HISTORY

On May 13, 2005, Indianapolis Police Department Officers David Drane and Charles Rhodes responded to a call at 3127 East 38th Street, which was Godfrey's residence. Upon arriving, Officer Drane observed Retta Kizer, who is Godfrey's ex-wife, and their nine-year-old daughter, Camirra, approaching him and crying. Both Officers Drane and Rhodes noticed Kizer's face and neck were red, most noticeably along the sides of her neck. According to Kizer, Godfrey had choked her by placing his hands around her neck, which caused her to feel pain, have difficulty breathing, and feel like blacking out. Kizer further reported that Godfrey had pointed a gun at her following the choking incident. Officer Drane approached Godfrey and patted him down, whereupon he found a gun holster on Godfrey's right ankle. Upon performing a protective sweep, Officer Drane found a handgun in Godfrey's bedroom closet. Kizer identified the handgun as the one Godfrey pointed at her. Officer Drane also found a shotgun in the same closet.

On May 14, 2005, the State charged Godfrey with pointing a firearm, domestic battery, and battery. Following a December 6-7, 2005 bench trial, the trial court found

¹ Ind. Code § 35-47-4-3 (2004).

² Ind. Code § 35-42-2-1.3 (2004)

Godfrey guilty of pointing a firearm and domestic battery.³ On January 17, 2006, the trial court sentenced Godfrey to concurrent sentences of 545 days, with 535 days suspended to probation, for pointing a firearm; and to 365 days, with 355 days suspended to probation, for domestic battery. In addition, the court ordered Godfrey to complete twenty-six weeks of domestic violence counseling and issued a no-contact order. On October 18, 2007, Godfrey filed a motion to file a belated notice of appeal, which the trial court granted. This appeal follows.

DISCUSSION AND DECISION

On appeal, Godfrey challenges the sufficiency of the evidence to support his convictions for pointing a firearm and domestic battery. Our standard of review for sufficiency-of-the-evidence claims is well-settled. We do not reweigh the evidence or judge the credibility of the witnesses. *Kien v. State*, 782 N.E.2d 398, 407 (Ind. Ct. App. 2003), *trans. denied*. We consider only the evidence which supports the conviction and any reasonable inferences which the trier of fact may have drawn from the evidence. *Id.* We will affirm the conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt. *Id.* It is the function of the trier of fact to resolve conflicts of testimony and to determine the weight of the evidence and the credibility of the witnesses. *Jones v. State*, 701 N.E.2d 863, 867 (Ind. Ct. App. 1998). A conviction may rest upon the uncorroborated testimony of the victim. *Ludy v. State*, 784 N.E.2d 459, 461 (Ind. 2003).

³ The trial court found Godfrey not guilty of battery based upon double jeopardy considerations.

I. Pointing a Firearm

Indiana Code section 35-47-4-3(b) provides that “[a] person who knowingly or intentionally points a firearm at another person commits a Class D felony.” Here, Kizer testified that Godfrey pointed a gun at her. Godfrey’s challenge to the credibility of Kizer’s testimony on this point is simply an invitation to reweigh the evidence, which we decline to do. Additionally, Officer Drane found Godfrey wearing a gun holster on his right ankle and a handgun in Godfrey’s bedroom closet, corroborating Kizer’s report. Godfrey’s challenge to his conviction for pointing a firearm is without merit.

II. Domestic Battery

Indiana Code section 35-42-2-1.3 provides that “[a] person who knowingly or intentionally touches an individual who ... is or was a spouse of the other person ... or ... has a child in common with the other person ... in a rude, insolent, or angry manner that results in bodily injury^[4] ... commits domestic battery, a Class A misdemeanor.” Here, Kizer testified that Godfrey, her ex-husband with whom she shares a daughter, was angry with her and choked her with his hands, causing her pain. Shortly after the incident, both Officers Drane and Rhodes found red marks on Kizer’s neck. Godfrey’s challenge to his conviction based upon what he claims was the incredible dubiousity of Kizer’s version of the events is simply another invitation to reweigh the evidence, which we decline to do. While a reviewing court will impinge upon the fact-finder’s credibility judgments when confronted with testimony of inherent improbability, or coerced, equivocal, wholly

⁴ “Bodily injury” means any impairment of physical condition, including physical pain. *See* Ind. Code § 35-41-1-4 (2004).

uncorroborated testimony of incredible dubiousity, this exception applies only where a single witness testifies and there is a complete lack of circumstantial evidence of guilt. *Bowles v. State*, 737 N.E.2d 1150, 1152 (Ind. 2000). Here, Kizer's testimony was corroborated by Officers Drane's and Rhodes's observations of red marks on her neck. We conclude Godfrey's challenge to his conviction for domestic battery is without merit.

The judgment of the trial court is affirmed.

BARNES, J., and CRONE, J., concur.